

ENTERED

June 22, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

MACEO RODGERS, ET AL.	§	
	§	
V.	§	CIVIL ACTION NO. G-14-055
	§	
SPAR BUSINESS SERVICES, INC.,	§	
ET AL.	§	

OPINION AND ORDER

Before the Court by referral¹ is the Renewed Motion for Nationwide Conditional Collective Action Certification of the merchandisers who have worked for the Defendants in the last three years. Having reviewed the file and considered the Parties' submissions the Court now issues this Opinion and Order.

For very practical reasons, the Motion will be denied. This Court, in part, limited the geographical scope of the permitted Notice in anticipation of what has actually occurred. About 60 claimants joined this action during the opt-in period. From the limited discovery completed so far it appears that SPAR, as Plaintiffs suspected, treated all the merchandisers it utilized in the same manner. Consequently, there is now before the Court a sufficient class of merchandisers from which to determine whether SPAR has violated the FLSA. In the opinion of this Court, the Parties should now concentrate discovery on whether decertification is appropriate. That issue can be adequately

¹ Although the referral requested a Report and Recommendation, the Motion is a non-dispositive matter which this Court can consider and determine.

addressed within the deadlines of the current Docket Control Order and its resolution will help advance this litigation. On the other hand, an expansion of the conditional class at this juncture will only stall this case for several months without any likelihood the ultimate resolution of this central issue will be any different. If decertification is denied, the District Court can then make a more meaningful decision about whether a broader conditional class should be considered or the case should proceed to trial, but there is no good reason to unnecessarily and unproductively delay the progress of this case at this time.

It is, therefore, **ORDERED** that “Plaintiffs’ Renewed Motion for Nationwide Conditional Collective Action Certification and Court-Authorized Notice Pursuant to 29 U.S.C. § 216(h)” (Instrument no. 72) is **DENIED**.

DONE at Galveston, Texas, this 22nd day of June, 2016.



John R. Froeschner
United States Magistrate Judge